

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HUNTER HOMES &
PROPERTIES, INC.,

Plaintiff,

v.

GEORGIA ATLANTA
AMUSEMENTS, INC.,

Defendants.

Civil Action No.:

Jury Demand

COMPLAINT

Plaintiff Hunter Homes & Properties, Inc. (“Hunter Homes”) now brings this action against Defendant Prakash Software Solutions PVT. LTD (“PSSP”) and states as follows:

1. Hunter Homes brings this action for copyright infringement against PSSP based upon PSSP’s use of software code owned by Hunter Homes that implements process mapping functionalities. The software code was written by as a commissioned work by PSSP, and is owned by Hunter Homes pursuant to (a) operation of the Copyright Act’s work for hire doctrine, 17 U.S.C. §§101, et seq., and (b) a commissioned by Hunter Homes.

2. Hunter Homes also seeks a declaration that it is the rightful owner of all process mapping software code written by PSSP after PSSP was commissioned by Hunter Homes to write such code

PARTIES

3. Hunter Homes is a corporation organized and existing under the laws of the State of Georgia with its principal place of business at 245 Country Club Drive 300-F, Stockbridge GA 30281 Georgia.

4. Hunter Homes alleges on information and belief that PSSP is a corporation organized and existing under the laws of the India with a principal place of business in India.

5. PSSP has infringed a valid and enforceable copyright of Hunter Homes. PSSP has also made ownership claims in software code used to implement certain processing mapping software which was written for Hunter Homes.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to, *inter alia*, 28 U.S.C. §§ 1331, 1338, 2201 and the Copyright Act, 17 U.S.C § 101, *et seq.*

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because, *inter alia*, a substantial part of the events giving rise to the claim occurred here, and, on information and belief, PSSP has by agreement consented to venue within the State of Georgia making it subject to the personal jurisdiction in this district.

FACTUAL BACKGROUND

8. Hunter Homes has created, developed, and invented certain processes for project management for construction industry; Software as a service (“SAAS”) services featuring software for use in the construction industry to facilitate collaboration among all participants in and for management of a construction project including contractors, subcontractors, and vendors by coordinating scheduling, bidding, construction management, construction services, document management, and job costing. The process was termed “Clearview Cloud.”

9. PSSP is in the business of developing and writing code for others in exchange for compensation.

10. Hunter Homes engaged PSSP to write software code to implement and execute the Clearview Cloud process developed by Hunter Homes pursuant to the Software Assignment Agreement (“Agreement”) between the Parties (“Clearview Cloud Software”). To date, Hunter Homes has paid all monies due and owing to PSSP for all delivered products.

11. Indeed, PSSP have since final payment attempted to extort additional funds from Hunter Homes for duplicative work. PSSP will not provide the source code for Clearview Cloud Software.

12. The “Clearview Cloud Software” drafted by PSSP implements the Clearview Cloud process. This software was stored on a cloud-based system and was accessible to Hunter Homes until approximately December 15, 2016. On information and belief, PSSP took steps to disable Hunter Homes' access to the cloud-based system.

13. In the Agreement dated April 25, 2013, PSSP acknowledged, assigned, and confirmed the assignment of any and all rights to the Clearview Cloud Software.

14. PSSP and its counsel were familiar with the terms of the Agreement with Hunter Homes and understood that it vested all rights, title, and ownership of any work on the Clearview Cloud Software code vested in Hunter Homes. In at least four (4) text messages, PSSP acknowledged that the Clearview Cloud Software is owned by Hunter Homes.

15. However, in at least two (2) emails, PSSP alleged ownership of the Clearview Cloud Software. PSSP has refused to execute any agreement confirming ownership of the Clearview Cloud Software to Hunter Homes.

16. By operation of the Copyright Act's work for hire doctrine and pursuant to the Agreement, all code written after April 25, 2013 by PSSP related to the Clearview Cloud process is owed by Hunter Homes. See 17 U.S.C. §§ 101, 201(b) (the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright); Community for Creative Non-Violence v. Reid, 490 U.S. 730 (1989) (As defined in the Copyright Act of 1976, copyright ownership is vested in the employer of the work, not the worker, unless there is a written agreement to the contrary).

17. In December of 2016, PSSP sent a text message to Hunter Homes in which PSSP claimed that PSSP, not Hunter Homes, owned all rights to the Clearview Cloud software written by PSSP and indicated that monies were due to PSSP in order for Hunter Homes to again access to the software.

**FIRST CLAIM FOR RELIEF
DECLARATORY JUDGMENT**

18. Hunter Homes re-alleges and incorporates by reference Paragraphs 1 through 16 as if fully set forth herein.

19. In numerous statements leading up to this lawsuit, including statements made to Hunter Homes, PSSP has claimed all rights, title, and interest in and to the Clearview Cloud Software code written by PSSP. PSSP now improperly claims ownership of the copyright to such code. PSSP has further claimed that Hunter Homes has no ownership rights in the Clearview Cloud Software code and no rights to use any of the code written by PSSP.

20. Hunter Homes vehemently disagrees with PSSP's statements which are impacting its operations.

21. Notably, any and all attempts by Hunter Homes to resolve its dispute with PSSP have been met with resistance and an unwillingness to compromise.

22. As such, an actual and justiciable controversy exists between the Parties which "touches the legal relations of parties having adverse legal interest" regarding: (1) Hunter Homes' ownership of the copyright to the Clearview Cloud Software code; and (2) Hunter Homes' license to use the code written by PSSP after April 25, 2013. Accordingly, a declaration of the rights and other legal relations of the interested parties is appropriate.

PRAYER FOR RELIEF

WHEREFORE, Hunter Homes prays for a judgment against PSSP that:

a) Permanently enjoins PSSP from copying or distributing Hunter Homes' copyrighted software code and from creating derivative works of Hunter Homes' copyrighted software code;

b) Declares that Hunter Homes owns the copyright to all process mapping software and source code written by PSSP after April 25, 2013;

c) Awards Hunter Homes its costs and expenses of suit incurred and attorneys' fees as allowed by law; and

d) Grants Hunter Homes such other relief as the Court may deem proper.

This 13th day of January, 2017.

/s/ Nigam Acharya

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CERTIFICATION OF FONT

The undersigned hereby certifies that he has prepared the within and foregoing document in accordance with LR 5.1, NDGA, and LR 7.1(D), NDGA. Specifically, counsel certifies that he has used 14-point Times New Roman as the font in these documents except for footnotes, which are in 10-point Times New Roman.

This 13th day of January, 2017.

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